

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

OSWALDO NERI,

Defendant.

8:21-CR-13

**ORDER ON MOTION FOR SENTENCE
REDUCTION**

This matter is before the Court on defendant Oswaldo Neri’s *pro se* Motion for Sentence Reduction. [Filing 197](#). Neri makes this Motion pursuant to [18 U.S.C. § 3582\(c\)\(2\)](#), which permits a court to modify a term of imprisonment “in the case of a defendant who has been sentenced to a term of imprisonment based on a sentencing range that has subsequently been lowered by the Sentencing Commission”. [18 U.S.C. § 3582\(c\)\(2\)](#). Neri also references § 1B1.10 of the United States Sentencing Guidelines, which allows the Court to reduce a sentence when “the guideline range applicable to that defendant has subsequently been lowered as a result of an amendment to the Guideline’s Manual listed in subsection (d)”. [U.S.S.G. § 1B1.10\(a\)\(1\)](#). This section is only applicable when an amendment listed in § 1B1.10(d) applies to the defendant. *See* [U.S.S.G. § 1B1.10](#) application note 1.

Here, Neri points to Amendment 782 of the Sentencing Guidelines—which modified the base offense levels for certain drug crimes—as a reason he qualifies for a reduced sentence. [Filing 197 at 3–4](#). To the contrary, Neri was sentenced by this Court on January 11, 2023, which is over seven years after the effective date of Amendment 782. Thus, his guidelines were calculated in accordance with that amendment. Neri makes no further arguments that [18 U.S.C. § 3582\(c\)\(2\)](#) and [U.S.S.G. § 1B1.10](#) apply. Moreover, the Court is also required by statute to consider the [18](#)

U.S.C. § 3553(a) factors before reducing a sentence. *See* 18 U.S.C. § 3582(c)(2). For the same reasons outlined by the Court during sentencing, which occurred about a month ago, a sentence reduction would be inconsistent with the § 3553(a) factors. Accordingly,

IT IS ORDERED that Oswaldo Neri's Motion to Reduce Sentence, [Filing 197](#), is denied.

Dated this 23rd day of February, 2023.

BY THE COURT:

A handwritten signature in black ink, appearing to read "B. C. Buescher", written over a horizontal line.

Brian C. Buescher
United States District Judge